

# ELECTIONS. PRIMARIES. INITIATIVE CONSTITUTIONAL AMENDMENT AND STATUTE.

## OFFICIAL TITLE AND SUMMARY

Prepared by the Attorney General

### Elections. Primaries.

#### Initiative Constitutional Amendment and Statute.

- Requires primary elections where all voters may vote for any state or federal candidate regardless of how a voter or candidate is registered.
- Exempts presidential nominations and elections of party central committees.
- Only the two primary-election candidates receiving most votes for an office, whether they are candidates with “no party” or members of same or different party, would be listed on general election ballot.
- In special primary election, candidate receiving majority vote is elected.
- Requires political party’s consent for identification of candidates’ party registration on ballot and in other official election publications.

### Summary of Legislative Analyst’s Estimate of Net State and Local Government

#### Fiscal Impact:

- No significant net fiscal effect on state and local governments.

## ANALYSIS BY THE LEGISLATIVE ANALYST

### BACKGROUND

California generally holds two statewide elections to elect a candidate to public office—a primary election (in March) and a general election (in November). Some public offices (such as the Governor and members of the Legislature) are partisan, which means that a candidate represents a political party in an election. For partisan offices, the primary election determines each political party’s nominee for the office. The candidate receiving the most votes among a party’s candidates is that party’s nominee for the general election. In the general election, voters then choose among all of the parties’ nominees, as well as any independent candidates, to elect a candidate to office. Other offices (such as the Superintendent of Public Instruction and local officials) are nonpartisan, which means that a candidate does not represent a political party. For these nonpartisan offices, the primary election generally reduces the field of candidates by advancing the top two vote-getters to the general election.

For every primary election, each county prepares a ballot and related materials for each political party. Those voters affiliated with political parties receive their party’s ballot. Voters with no party affiliation generally receive ballots related only to nonpartisan offices and propositions. This system is known as a “closed” primary since voters of one party cannot vote for candidates of any other party. (In California, parties may allow voters with no party affiliation to receive their party’s ballot. Three parties chose to allow this for the March 2004 election.) Figure 1 compares this type of primary system with several other systems, including the one proposed by this measure.

In March 1996, California voters approved Proposition 198, which created a “blanket” primary system. Proposition 198 allowed all voters, regardless of party affiliation, to vote for any candidate in a primary election. As with the existing system, the candidate from each party receiving the most votes in the primary appeared on the general election ballot. This system was used for primaries in 1998 and 2000. The United States Supreme Court, however, ruled in June 2000 that this system was unconstitutional and could no longer be used. As a result, the state returned to using party-specific ballots for primaries in 2002.

### PROPOSAL

**Changes to Primary System.** This measure amends both the State Constitution and state statutes to make changes to primary elections. For most state and federal elected offices, this measure allows voters—including those not affiliated with a political party—to vote for any candidate regardless of the candidate’s political party. The measure applies to the election of state constitutional officers, members of the Legislature, and members of Congress. The measure, however, does not apply to the election of the U.S. President or political party committees. If approved, the new system would be used beginning with the March 2006 primary.

Under the measure, each county would prepare for use by all voters a single, primary ballot covering most offices. (There would, however, be a separate party-specific ballot for U.S. President and political party committees.) Candidates affiliated with parties and independent candidates would appear on the primary ballot. In each primary, only the top two vote-receiving candidates—regardless of party identification—would

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ANALYSIS BY THE LEGISLATIVE ANALYST (CONT.)

FIGURE 1			
TYPES OF PRIMARY ELECTIONS			
Closed	Limited Open	Blanket	Modified Blanket
Use in California			
Prior to 1998 and since 2002	—	1998 and 2000, under Proposition 198	Would be implemented beginning in 2006 under Proposition 62.
Description			
Voters only receive their party's ballot. <sup>a</sup> Each party's top vote-getter advances to the general election.	Voters choose which party's ballot to receive. Like the closed primary, a voter can only vote for candidates from a single party. Each party's top vote-getter advances to the general election.	All voters receive the same ballot. A voter can choose candidates from different parties for different offices. Each party's top vote-getter advances to the general election.	Primaries are not party-based. All voters receive the same ballot. Like the blanket primary, voters can choose candidates from different parties for different offices. However, unlike the blanket primary, only the top two vote-getters advance to the general election—regardless of party affiliation.
<sup>a</sup> In California, parties may allow voters with no party affiliation to receive their party's ballot.			

be placed on the general election ballot. These two candidates would be the candidates on the general election ballot. (A write-in candidate could increase the number of general election candidates.)

**Comparison to Proposition 198.** As under Proposition 198, the measure would not require a voter to select candidates from the same party for all offices. Instead, a voter could choose candidates from different political parties for different offices. Unlike Proposition 198, however, this measure would not guarantee that each party has a candidate on the general election ballot. Only the top two vote-getters would advance to the general election. It would be possible for both general election candidates to have the same party affiliation.

**Related Provisions in Proposition 60.** Proposition 60 on this ballot also contains provisions affecting which primary candidates advance to the general election ballot. That measure would require each party's top vote-getter in the primary to appear on the general election ballot (as is the case currently). The State Constitution provides that if the provisions of two approved propositions are in conflict, only the provisions of the measure with the higher number of yes votes at the statewide election take effect.

**Other Provisions.** Proposition 62 also makes a number of other changes to the state's election procedures, including easing the requirements for political parties and candidates to participate in primary elections. For instance, in order to participate in a primary under current law, candidates must collect a certain number of

signatures from registered voters affiliated with their own party. Under this measure, candidates could collect these signatures from any registered voters, regardless of party affiliation.

FISCAL EFFECT

This measure would change some of the administrative procedures associated with holding elections. In some cases, these changes could increase state and county election costs. For instance, this measure would tend to increase the number of candidates on primary election ballots due to eased participation requirements and the inclusion of independent candidates. Consequently, the state and counties may experience increased printing and mailing costs for the preparation of primary election ballots and informational materials.

In other cases, the measure could reduce election costs. For example, by eliminating in some instances the need to prepare different ballots for each political party, counties could realize some savings. For general election ballots, the measure would reduce the number of candidates (by limiting candidates to the top two vote-getters from the primary). As a result, the state and counties may experience reductions in general election costs from the reduced number of candidates.

These costs and savings would be relatively minor and would tend to offset each other. As a result, we estimate that the measure would result in no significant net fiscal effect on state and local governments.

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### ARGUMENT in Favor of Proposition 62

THE VOTER CHOICE PRIMARY GIVES *YOU* THE POWER—NOT THE PARTY BOSSES AND POLITICIANS  
Proposition 62, The Voter Choice Primary Initiative, allows every voter—including *independent voters*—to vote for the best candidate for office, regardless of party, in primary elections.

The Voter Choice Primary is similar to the method Californians have used for the past century to elect mayors, city council members, county supervisors, and district attorneys.

Proposition 62 puts power—and choice—back in *your* hands and takes it away from the party bosses and political insiders who've stacked the system in their favor—at our expense.

THE VOTER CHOICE PRIMARY ACT IS BADLY NEEDED REFORM

It will:

- open up California's elections process
- expand voter choices
- increase voter participation
- create more competition in elections
- make more accountable our state's elected officials, so they are responsive to *all* voters—not just the special interests and those at the ideological extremes

CALIFORNIA VOTERS SUPPORT PRIMARY ELECTION REFORM

California voters passed primary election reform in 1996 with almost 60% of the vote over the opposition of the party bosses. The 1998 and 2000 elections were run under these reforms and voter participation increased. But the party bosses used the courts to block these reforms they couldn't defeat at the ballot box. Proposition 62 is written in a manner that addresses the concerns of the courts and restores the will of the people of California.

RESTORE COMPETITION—OPEN UP THE CURRENT PRIMARY SYSTEM THAT'S STACKED AGAINST THE VOTERS

Politicians of both major parties cut a backroom deal to protect incumbents. They created mainly "safe" legislative districts where party registration heavily favors one party or the other. The winner of the majority party's primary election is virtually guaranteed victory in the almost meaningless general election. Meanwhile, voters in other political parties have no real voice in the selection of their representatives in Sacramento and Washington.

The politicians and party bosses like the current system because they can control it.

That's why we're stuck with an unpopular State Legislature that's out of touch with the will of California voters.

HOW WOULD IT WORK?

In primary elections, every voter would receive a ballot listing the name of all candidates and in most cases their party registration. Voters, including independents, can pick the candidate of their choice for each office, regardless of the candidate's party registration. The top two vote-getters, regardless of party, would face each other in the November general election. (Presidential nominating and party central committee elections would be unaffected by the Voter Choice Primary.)

PROPOSITION 62 IS OPPOSED BY THE PARTY BOSSES

The party bosses are running a cynical scare campaign to hang on to their power by confusing voters about the Voter Choice Primary. Don't let them get away with it.

When it comes to elections, you—the *voter*—should be the boss.

STEVE WESTLY, *California State Controller*

RICHARD J. RIORDAN, *California Secretary for Education*

BECKY MORGAN, *Former State Senator*

### REBUTTAL to Argument in Favor of Proposition 62

Don't be fooled!

Prop. 62 is NOT the same as what voters passed in 1996. Under the previous blanket primary, a nominee from each political party appeared on the November ballot. Voters had REAL CHOICE!

Under Prop. 62, only TWO candidates will appear on the November ballot—and they can be FROM THE SAME POLITICAL PARTY!

Prop. 62 is so flawed that only one other state—Louisiana—uses such a system. There, it helped KKK leader David Duke make the runoff for Governor—with only 32% of the vote! Washington state recently rejected this system. So should California.

The proponents behind Prop. 62 talk about "expanding voter choices"—BUT 62 does the OPPOSITE, restricting voters to only TWO CHOICES in November and forcing smaller parties' candidates off the ballot.

They talk about "creating more competition"—BUT 62 creates LESS competition in November's election.

They talk about "increasing voter participation"—BUT don't tell you that Louisiana has one of the lowest voter turnouts because voters have such limited choice.

Here's what Prop. 62 really does:

- Eliminates voter choice in General Elections
- Boosts extremist candidates
- Suppresses voter turnout, making Legislators LESS ACCOUNTABLE
- Repeals current law prohibiting a candidate from running for more than one office at the same time

Don't be fooled! Groups as diverse as Common Cause, Howard Jarvis Taxpayers Association, and California Federation of Teachers strongly OPPOSE 62.

KRIS GREENLEE, *Vice-Chair*

*California Common Cause*

HONORABLE MIMI WALTERS, *Founding Member*

*California Women's Leadership Association*

GEORGE RUNNER, *Co-Chair*

*Citizens and Law Enforcement Against Election Fraud*

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## ARGUMENT Against Proposition 62

Proposition 62 is NOT reform. It RESTRICTS VOTER CHOICE, makes the Legislature LESS ACCOUNTABLE and greatly damages California democracy. Vote NO on 62.

The special interests behind Prop. 62 want California to join Louisiana as the only state in the nation with a bizarre system based on Louisiana law that SEVERELY RESTRICTS voter choice in November elections.

There's a reason NO OTHER STATE has such a system—it's deeply flawed and undemocratic!

It helped Ku Klux Klan Leader David Duke run for Governor and has resulted in Louisiana having one of the LOWEST VOTER TURNOUTS in the nation. We shouldn't pattern California on Louisiana's bad laws.

Here's how Prop. 62 would undermine your vote:

In primary elections, all candidates would appear in a long list on the same ballot. Only the top two vote-getters, regardless of political party, would be allowed on the November ballot. In many races, YOUR ONLY CHOICE WILL BE TWO CANDIDATES FROM THE SAME PARTY.

If Prop. 62 had been in effect since 2000, over 350 candidates would have been barred from the November ballot. Those candidates received over 8.2 million votes—votes that would be BANNED by Prop. 62.

Democrats could be forced to vote for a Republican in many races, or not vote at all. Likewise, Republicans could be forced to vote for Democrats. That's not choice and it's not democracy.

Other smaller parties—Greens, Libertarians, American Independent, Peace & Freedom, and Natural Law—would all effectively be FORCED OFF THE NOVEMBER BALLOT.

WE NEED CHOICES AND ACCOUNTABILITY. INSTEAD, PROP. 62 INTRODUCES LOUISIANA'S DEEPLY FLAWED SYSTEM THAT ELIMINATES CHOICE AND MAKES THE LEGISLATURE LESS ACCOUNTABLE.

Currently, we have a diverse Legislature with a representative number of Latino, Asian, and African Americans serving, as well as a good mix of men and women.

Under Prop. 62, that DIVERSITY COULD BE UNDERMINED. The Legislature could be dominated by VERY WEALTHY SPECIAL INTERESTS.

Who is paying for 62? A small group of millionaires who have LOST at the ballot box and now want to change the rules to manipulate primary elections and limit YOUR choice in General Elections, giving themselves a better chance to win.

Don't let them get away with stealing your choice and your vote.

Conservative, moderate, and liberal public interest organizations are working together to urge you to vote NO on 62.

COMMON CAUSE, THE HOWARD JARVIS TAXPAYERS ASSOCIATION, THE LATINO COALITION, THE LEAGUE OF CONSERVATION VOTERS, AND THE CENTER FOR VOTING AND DEMOCRACY all say NO to 62. The Congress of California Seniors and California Federation of Teachers also say NO.

ALL SEVEN POLITICAL PARTIES, WHO RARELY AGREE ON ANYTHING, URGE YOU TO VOTE NO ON 62.

Prop. 62 would:

- Eliminate voter choice in General Elections
- Force Green, Libertarian, and other political parties off the November ballot
- Make it harder for women and minorities to win elections
- Make the Legislature less accountable

Protect your VOTE and our DEMOCRACY—vote NO on 62.

MARY BERGAN, *President*

*California Federation of Teachers*

MARIO RODRIGUEZ, *Chairman*

*The Latino Coalition*

JON COUPAL, *President*

*Howard Jarvis Taxpayers Association*

## REBUTTAL to Argument Against Proposition 62

Everything you've just read in the opponents' arguments against Prop. 62 are misleading scare tactics.

They claim they're protecting your right to vote. FACT: *THEY'RE TRYING TO DENY YOU THE RIGHT TO VOTE FOR ANY CANDIDATE YOU CHOOSE, REGARDLESS OF PARTY.*

They claim Proposition 62 is a scary new thing. FACT: CALIFORNIA VOTERS OVERWHELMINGLY PASSED ELECTION REFORM IN 1996, WINNING 60% OF THE VOTE AND CARRYING ALL 58 COUNTIES.

They claim the Voter Choice Primary has something to do with Louisiana. FACT: IT'S MODELED AFTER THE WAY CALIFORNIANS HAVE ELECTED OUR LOCAL OFFICIALS FOR ALMOST 100 YEARS.

They claim the Voter Choice Primary will reduce diversity. FACT: THE PRIMARY SYSTEM USED IN 1998 AND 2000 INCREASED WOMEN AND MINORITY LEGISLATORS.

They claim this is about David Duke. FACT: A former KKK Grand Wizard and John Birch Society members have been nominated THROUGH CLOSED PRIMARIES here in California. Proposition 62 guards AGAINST extremism.

That's why the deceitful efforts against Prop. 62 led

by the party bosses, legislative leaders, and special interests have been described as:

- a "smelly stunt" (*Los Angeles Times*, 6/28/04)
- "sneaky—legislative maneuvering" and "an unvarnished effort to undermine" the Voter Choice Open Primary initiative (*San Jose Mercury News*, 6/25/04)
- "a remarkable display of audacity...using a full array of fairness-flouting tactics" (*San Francisco Chronicle*, 6/23/04)

Had enough?!

VISIT [WWW.OPENPRIMARY.ORG](http://WWW.OPENPRIMARY.ORG) FOR THE FACTS.

JOIN SENATOR JOHN MCCAIN IN SUPPORTING PROP. 62. Take power away from the party bosses! VOTE YES on 62!

LEON PANETTA, *Former White House Chief of Staff to President Clinton*

JULIE PUENTES, *Executive Vice-President Orange County Business Council*

HARRIET HOFFMAN, *State Coordinator Committee for an Independent Voice*